

March 2 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

FILED

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STATE OF MONTANA

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8 Cross Appellant

IN THE SUPREME COURT OF THE STATE OF MONTANA

* * * * *

VALERIE EMMERSON,

Case No. DA-09-0487

Appellant,

v.

APPELLEES WALLACE C. WALKER AND

WALLACE C. WALKER and

RANA RAE WALKER'S VERIFIED

RANA RAE WALKER,

MOTION TO FILE OVERLENGTH BRIEF

Appellees, Cross Appellant

v.

S. TUCKER JOHNSON,

Appellee.

19 COMES NOW Appellee and Cross Appellant, Wallace and Rana Rae
20 Walker, by and through their counsel of record, Leanne M. Schraudner, and
21 moves this court to allow the filing of an overlength brief, consisting of
22 approximately 12,350 words. This verified motion is made for the following
23 reasons;

- 24 A. This brief responds to two appellant briefs. Additionally, Walker's have
25 a cross appeal. Each appellant's brief raises distinct issues; there is no
26 overlap between the briefs. Walker's cross appeal raises an issue not
27
28

1 presented in either appellant's brief. While appellants were each
2 allowed 10,000 words to present their issues for consideration on
3 appeal, Walkers response to both appellants' briefs and Walker's
4 presentation of their cross appeal is confined to a total of 10,000
5 words. (By way of comparison, Johnsons' brief alone is 40 pages in
6 length. Walkers' brief, which address both appellants' briefs and
7 supports the cross appeal totals 46¼ pages.)
8

9 B. The difficulties imposed by the 10,000 word limit are compounded by
10 the fact that this case is fact intensive. A recitation of the pertinent
11 facts utilizes a significant number of the words allocated for the brief.
12

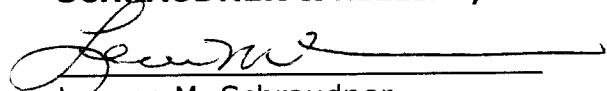
13 C. Walkers' draft brief numbered in excess of 15,000 words. After
14 significant revision, Walkers' response brief to both Appellants briefs
15 and Walker's cross appeal has been reduced to approximately 12,350
16 words. Walker's counsel submits that any further reduction in length
17 will necessitate the elimination of substantive arguments.

18 D. Emmerson's counsel does not object to the overlength brief. Johnson's
19 counsel does object to the overlength brief.

20 E. Wherefore Walkers request this Court to allow the filing of their
21 overlength brief, consisting of approximately 12,350 words.

22 DATED THIS 2 day of March, 2010.

23 **SCHRAUDNER & HILLIER, PLLC**

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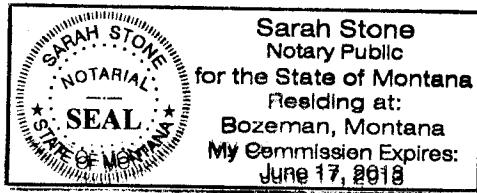
25 Leanne M. Schraudner
26 Attorney for Appellees/Cross Appellants
27 Rana Rae and Wallace Walker
28

1 STATE OF MONTANA)

:ss.

2 County of Gallatin)

3 Subscribed and sworn to before me this 1st day of March, 2010.



PRINTED NAME: Sarah Stone
Notary Public for the State of Montana
Residing at: Bozeman, MT
My Commission Expires: June 17, 2013

8 **CERTIFICATE OF SERVICE**

9 I hereby certify that on the 2nd day of March, 2010, I served a true
10 and correct copy of the above and foregoing document upon the following
11 interested parties by depositing in the United States mail, postage prepaid,
12 addressed as follows:
13

14 Karl Knuchel
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22 Sarah Stone
Sarah Stone, Secretary